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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Performance Measurements and)
Reporting Requirements)
for Operations Support Systems,)
Interconnection, and Operator Services)
and Directory Assistance)

CC Docket No. 98-56
RM-9101

REPLY COMMENTS OF GTE

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SUMMARY

GTE supports the Commission's effort to adopt model performance measures and reporting guidelines for various operations support services ("OSS") and interconnection functions. As a number of state commissions confirm, model guidelines will assist states that wish to develop OSS performance measures while giving them flexibility to adapt any requirements to local circumstances, to consider any rules in light of similar or identical obligations already imposed by interconnection agreements, and to address relevant state concerns, such as incumbent local exchange carrier ("ILEC") legacy systems and the needs of competitive local exchange carriers ("CLECs"). Contrary to the claims of several CLECs and interexchange carriers ("IXCs"), binding national rules are neither authorized nor necessary. GTE's positions on other issues raised in the comments are summarized below and fully discussed herein.

Scope of measurements. While some commenters urge the Commission to adopt more extensive requirements and others suggest that the proposed guidelines go too far, GTE submits that the Commission's measures are generally balanced. GTE's ILEC and CLEC interests both agree that the proposed model guidelines – with the few exceptions noted in GTE's Comments and described below – reasonably balance the need for access to information with the burdens such measures place on ILECs. However, the Commission should not adopt the additional requirements advocated by some parties because they will put substantial burdens on ILECs with little corresponding benefit.

Purpose of measurements. The record also underscores the need to clarify that the purpose of any performance measures is to confirm that CLECs receive non-

discriminatory treatment and not to establish performance benchmarks, as suggested by some commenters. In addition, consistent with this fact, performance data should be used only for regulatory purposes as determined by the states and must be kept confidential. Finally, GTE agrees with Ameritech that CLECs should be subject to reciprocal reporting requirements. CLECs should be required to provide information both to the extent necessary to allow accurate reporting by ILECs, such as in the case of interconnection trunk blockage, and to ensure that CLECs are treating fairly customers who want to switch to other carriers.

Analogs to retail performance. GTE agrees with AT&T that "reasonable ILEC analogs" can be developed for most performance measures. However, as described below, retail analogs may vary in their degree of accuracy and some analogs may not be feasible until electronic data interchange ("EDI") is implemented. Accordingly, these facts must be taken into account when evaluating non-discriminatory performance, particularly when statistical tests are used.

Reporting and auditing guidelines. In addition, several commenters echo GTE's concern that proposed model reporting or auditing guidelines should be reasonably tailored, work with existing ILEC practices, and minimize the burdens on the parties that produce and use this information. To this end, reporting should be done on a state-wide basis; the smaller geographic areas proposed by several CLECs and others would be unduly burdensome and ignore the practical realities of ILEC processes. However, state commissions should consider whether national reporting of some measures is appropriate for the ILECs in their states. In addition, while reporting of ILEC-affiliate information is properly included in aggregate CLEC reports, such data should not be

reported on a CLEC-specific basis where doing so would contravene confidentiality requirements contained in an interconnection agreement between the parties. Further, GTE agrees with the suggestion of BellSouth and others that reporting methods that rely on electronic access and other methods should be developed to minimize burdens on ILECs while ensuring that CLECs can access information. However, given the complexity of such an approach, an industry organization should be designated to consider possible clearinghouse solutions and study issues such as data collection and security in order to develop a methodology that is acceptable to all parties. Finally, the Commission need not adopt the audit measures proposed by several CLECs and IXC's. Rather, it should encourage states to rely on auditing requirements included in existing interconnection agreements and to consider the need for additional, detailed information on a case-by-case basis.

Statistical methods. GTE supports the adoption of appropriate model statistical methods that states can use to ensure non-discriminatory access to OSS and interconnection. As Ameritech and SBC Communications emphasize in their Comments, statistical methods may be a useful first indication of problem areas, but statistical variations are not conclusive proof that disparate treatment has occurred. Any statistical analyses will introduce some level of false results, and little is known about the statistical properties of the proposed OSS and interconnection performance measures. In addition, GTE opposes the adoption of AT&T's "modified" z-test without further documentation and analysis.

OSS interface standards. Several ILECs and CLECs agree with GTE that technical standards for OSS interfaces should be left to industry organizations.

However, the Commission should reject CLEC-proposed deadlines for compliance with any industry standards. This issue is currently being considered by the Order and Billing Forum ("OBF") of the Alliance for Telecommunications Industry Solutions ("ATIS"), and the complexities associated with implementation make a uniform deadline impractical.

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REPLY COMMENTS OF GTE

GTE Service Corporation and its affiliated domestic telecommunications companies (collectively "GTE")¹ hereby file their Reply Comments in response to the Notice of Proposed Rulemaking issued in the above-captioned docket.² As GTE explained in its Comments, the Commission has proposed performance measures that generally balance the need to ensure that CLECs receive required access to information with the burdens such measures place on ILECs. Some commenters suggest that more detailed, binding rules are necessary, while others oppose even model guidelines. Nonetheless, GTE's ILEC and CLEC interests both agree that the

¹ GTE Alaska, Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., Contel of the South, Inc., GTE Communications Corporation, GTE Wireless Incorporated, and GTE Airfone Incorporated.

² Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance, CC Docket No. 98-56, RM-9101 (rel. Apr. 17, 1998) ("NPRM" or "Notice").

Commission's proposed approach will provide guidance to states that choose to adopt performance measures, while allowing them to take ILEC legacy systems, CLEC needs, and state-approved interconnection agreements into account. Therefore, GTE urges the Commission to adopt its proposed guidelines, modified as recommended in GTE's Comments and below.

I. THE RECORD UNDERSCORES THE BENEFITS OF NON-BINDING MODEL OSS MEASURES.

A. Non-binding guidelines will facilitate uniformity while giving states necessary flexibility.

As a number of state commissions confirm, the adoption of non-binding guidelines will assist states that wish to develop operations support systems ("OSS") performance measures while preserving their flexibility to adopt standards suited to local circumstances.³ Several states have devoted substantial resources to developing performance measures to ensure that ILECs are complying with their non-discrimination requirements under the Act. As the Ohio Public Utilities Commission explains, the Commission's framework will "prove extremely helpful for those states which have already initiated investigations and implementation of [OSS measures], as well as those states that are anticipating such actions."⁴ Adoption of model rules also will assist

³ Comments of the New York State Department of Public Service, CC Docket No. 98-56 at 1 (filed June 1, 1998) ("NYDPS Comments"); Comments of the Public Utility Commission of Texas, CC Docket No. 98-56 at 2, 9-10 (filed May 21, 1998) ("Texas PUC Comments").

⁴ Comments of the Public Utilities Commission of Ohio and the Staff of the Public Utilities Commission of Ohio, CC Docket No. 98-56 at 4 (filed June 1, 1998) ("Ohio PUC (Continued...)")

states by eliminating the need for extensive workshops and other proceedings designed to create state-specific OSS rules.

The Commission's proposal to adopt model guidelines recognizes the importance of giving states flexibility to adapt any performance measures to local circumstances. AT&T nonetheless claims that binding guidelines are necessary because "although a consensus is beginning to develop around the performance measurements and reporting requirements proposed by LCUG, the States, and especially ILECs, are not unanimous in their support."⁵ The fact that state commissions are not adopting the Local Competition Users Group ("LCUG") proposals in their entirety supports GTE's argument that there are different conditions in each state that must be considered rather than showing that binding federal rules are required. State commissions are in the best position to determine the need for and content of performance measures in light of local ILEC capabilities and CLEC requirements. The different approaches to OSS measurements outlined by several states in their Comments underscore the importance of allowing state commissions to take these considerations into account and to incorporate current state requirements.

Model guidelines also will preserve states' ability to address OSS measurement and reporting requirements in light of existing, state-approved interconnection agreements. Maintaining a duplicative measurement and reporting framework in the

(...Continued)
Comments").

⁵ AT&T Comments, CC Docket No. 98-56 at 14 (filed June 1, 1998) ("AT&T Comments") (footnote omitted).

form of state rules and contractual obligations would be unduly burdensome on the ILECs required to perform the measurements and the CLECs needing to reconcile large volumes of repetitive measurements. To avoid this problem, GTE urges the Commission to emphasize in its guidelines the importance of consistency between contractual measurement commitments and any rules a state may adopt. States that adopt performance measures should be encouraged to ensure that such rules are co-extensive with state-approved agreements.

Finally, model guidelines also may benefit both CLECs and ILECs by promoting efficiency and maximizing consistency among state rules. GTE disagrees with the assertion of AT&T and others that anything other than a uniform "one size fits all solution" will impose costly inefficiencies and increase barriers to new entrants.⁶ However, a model framework will give states a comprehensive baseline upon which they can build and tailor specific performance elements to meet local circumstances and to facilitate uniformity where feasible.⁷ Such a framework should be sufficient to permit ILECs to design and develop consolidated measurement and reporting systems and to ensure that CLECs receive substantially similar data from ILECs.

⁶ AT&T Comments at 15; Comments of MCI Telecommunications Corporation, CC Docket No. 98-56 at 5-6 (filed June 1, 1998) ("MCI Comments"); Comments of Sprint Corporation, CC Docket No. 98-56 at 3 (filed June 1, 1998) ("Sprint Comments"); Comments of WorldCom, Inc., CC Docket No. 98-56 at 5 (filed June 1, 1998) ("WorldCom Comments"). Indeed, WorldCom and other CLECs acknowledge the benefits of model rules and support adoption of such guidelines if binding rules are not adopted. WorldCom Comments at 6; Comments of the Association of Local Telecommunications Services, CC Docket No. 98-56 at 2 (filed June 1, 1998) ("ALTS Comments").

⁷ Texas PUC Comments at 9-10.

B. The Commission should decline to adopt the suggestion of several CLECs and IXC's that binding rules are authorized and required.

In the NPRM, the Commission requested comment on whether it has authority to issue OSS rules.⁸ In response, some commenters claim that the Commission has authority to adopt binding, national rules and that such rules are necessary to promote local competition.⁹ Generally, these parties assert that Section 251 of the Act allows the agency to adopt binding OSS rules¹⁰ and that the Eighth Circuit's decision in the *Iowa Utilities Board* case "does not affect the Commission's authority to establish the type of performance measurements and reporting requirements described in the Notice."¹¹ GTE and numerous other commenters disagree.¹²

⁸ NPRM, ¶ 25.

⁹ Comments of Allegiance Telecom, Inc., CC Docket No. 98-56 at 4-6 (filed June 1, 1998) ("Allegiance Comments"); ALTS Comments at 2; Comments of the Competitive Telecommunications Association, CC Docket No. 98-56 at 3-4 (filed June 1, 1998) ("CompTel Comments"); Comments of LCI International Telecom Corp. on Notice of Proposed Rulemaking, CC Docket No. 98-56 at 7-8 (filed June 1, 1998) ("LCI Comments").

¹⁰ Comments of GST Telecom, Inc., CC Docket No. 98-56 at 3 (filed June 1, 1998) ("GST Comments").

¹¹ AT&T Comments at 8; see also MCI Comments at 21; Comments of the Telecommunications Resellers Association, CC Docket No. 98-56 at 6-8 (filed June 2, 1998) ("TRA Comments").

¹² See, e.g., Comments of GTE, CC Docket No. 98-56 at 2-4 (filed June 1, 1998) ("GTE Comments"); Comments of ALLTEL Communications Services Corporation, CC Docket No. 98-56 at 2-4 (filed June 1, 1998); Ameritech's Initial Comments in Response to Notice of Proposed Rulemaking, CC Docket No. 98-56 at 7-11 (filed June 1, 1998) ("Ameritech Comments"); BellSouth Comments, CC Docket No. 98-56 at 2-5 (filed June 1, 1998) ("BellSouth Comments"); Comments of the Independent Telephone & Telecommunications Alliance, CC Docket No. 98-56 at 6 (filed June 1, 1998);

(Continued...)

As GTE explained in its Opposition and Reply to the LCI Petition,¹³ Sections 251 and 252 of the 1996 Act leave jurisdiction over OSS and interconnection issues to the states. Further, the Eighth Circuit's decision in the *Iowa Utilities Board* case confirmed that the Commission has only limited authority to regulate intrastate matters. Contrary to AT&T's assertion, the fact that the court upheld the agency's findings regarding the definition of unbundled network elements – including OSS – does not expand the Commission's jurisdiction.¹⁴ Indeed, the Eighth Circuit concluded that the “tangential impact” of the Act's local competition provisions on interstate services does not overcome Section 2(b)'s jurisdictional limits and does not alter the “fundamentally intrastate nature” of these provisions.¹⁵ Thus, it is clear that Congress has left to the states the enforcement of the terms and conditions under which an ILEC must fulfill its Section 251 and Section 252 obligations.¹⁶

(...Continued)

Comments of the United States Telephone Association, CC Docket No. 98-56 at 2 (filed June 1, 1998).

¹³ Opposition of GTE Service Corporation, CC Docket No. 96-98, RM-9101 at 3-7 (filed July 10, 1997); Reply of GTE Service Corporation, CC Docket No. 96-98, RM-9101 at 13-15 (filed July 30, 1997).

¹⁴ AT&T Comments at 9.

¹⁵ *Iowa Utilities Board v. F.C.C.*, 120 F.3d 753, 800 (8th Cir. 1997), *cert. granted*, 118 S. Ct. 879 (1998).

¹⁶ Along similar lines, Allegiance Telecom, Inc.'s claim that the Commission has “independent rulemaking authority under sections 4(i), 201(b) and 303(r) of the Act...” to adopt binding OSS rules is without merit. See Allegiance Comments at 5. As the Eighth Circuit emphasized, Section 4(i) and 303(r) may not be used to broaden the Commission's authority over OSS, interconnection, and OS/DA matters generally. *Iowa Utils. Bd.*, 120 F.3d at 798 n.18. Likewise, Section 201(b) may not be used to sidestep
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Other parties concur that the Commission lacks statutory authority to adopt binding OSS rules. For example, the New York Department of Public Service confirms that the Commission does not run afoul of Sections 2(b), 251 and 252 of the Act and the *Iowa Utilities Board* decision “[t]o the extent that the Commission merely proposes model rules and does not attempt to preempt OSS measurements or standards adopted by state commissions....”¹⁷ Similarly, Ameritech explains at length that any attempt by the agency to adopt rules in this proceeding would both exceed the Commission’s jurisdiction and flatly contradict the framework adopted by Congress in Sections 251 and 252 of the Act.¹⁸

Even if the Commission did have the authority to adopt binding measurement and reporting requirements, which it does not, such rules would not be warranted as a policy matter as AT&T and others claim.¹⁹ The Commission’s proposed model framework will ensure that states have a sound basis for any rules they deem appropriate. As noted above, state commissions are best suited to consider the need for performance measurements and reporting requirements in their jurisdictions. They are familiar with local ILECs’ legacy systems and capabilities, likely CLEC needs, other local factors that may affect the extent to which performance and reporting rules are

(...Continued)
the limits placed on the agency’s authority by the local competition provisions and Section 2(b).

¹⁷ NYDPS Comments at 2 n.1.

¹⁸ Ameritech Comments at 9-12.

¹⁹ AT&T Comments at 13-17; CompTel at 3-4, 8-9; GST Comments at 4-5.

required, and performance measures already required by state-approved interconnection agreements. Further, the evidence in the record offered by states and others²⁰ does not support MCI's claim that states will fail to address adequately performance measures in a "comprehensive and thus, effective manner" absent binding rules.²¹ Accordingly, the Commission should reject requests that it adopt inflexible, binding, and preemptive rules.²²

II. THE COMMISSION'S PROPOSED GUIDELINES GENERALLY BALANCE THE BURDENS AND BENEFITS OF PERFORMANCE MEASUREMENTS.

Some parties complain that the Commission's proposed guidelines are not sufficient²³ while others express concerns that the guidelines are too extensive.²⁴ In

²⁰ NYDPS Comments at 1; Ohio PUC Comments at 3-5; Texas PUC Comments at 2.

²¹ See MCI Comments at 5.

²² The General Services Administration asks the FCC to integrate performance measurements into the price cap regime to increase incentives for LECs to offer high quality services. Comments of the General Services Administration, CC Docket No. 98-56 at 16-18 (filed June 1, 1998). This proposal makes no sense and is beyond the Commission's authority. The price cap mechanism is used for interstate access prices. There is no relationship between these prices and performance measurements for *local services*. Further, since the Commission does not have authority to adopt binding performance measures for local services directly, it certainly may not do so indirectly through its price cap rules.

²³ See, e.g., AT&T Comments at 18-22; GST Comments at 5-13; Comments of KMC Telecom Inc. and RCN Telecom Services, Inc., CC Docket No. 98-56 at 5-19 (filed June 1, 1998) ("KMC/RCN Comments").

²⁴ See, e.g., Ameritech Comments at 22-82; BellSouth Comments at 11-31; Comments of Cincinnati Bell Telephone Company, CC Docket No. 98-56 at 11 (filed June 1, 1998); Comments of TDS Telecommunications Corporation, CC Docket No. 98-56 at 1-2, 9-13 (filed June 1, 1998).

reality, as GTE explained in its Comments, the Commission's model measurement guidelines generally strike a reasonable balance between benefits and burdens.²⁵ To increase the number of measurements above what the Commission has proposed in the NPRM would unduly burden ILECs, is unnecessary, and should be rejected.

A. The Commission should make minor modifications to the proposed guidelines to assure that they properly balance benefits and burdens.

GTE generally supports the guidelines proposed by the Commission with the few exceptions noted in its Comments. Accordingly, GTE urges the Commission to continue its balanced approach of adopting measurements that allow state commissions to determine if any discrimination is occurring. To that end, and in light of the suggestions made by commenters, GTE offers the following recommendations on specific proposals.

1. No additional measurements are needed for xDSL services.

Network Access Solutions suggests that additional performance measurements are necessary for xDSL services.²⁶ GTE disagrees. GTE's retail operations do not have electronic access to the specific elements proposed by Network Access Solutions,

²⁵ Of course, ILECs should be given the opportunity to recover all costs associated with OSS system development and legacy system modifications that result from performance measurement and report generation requirements, as well as CLEC-accessible interfaces. In addition, if a CLEC requests additional measurements or reports not provided for in state rules, it is solely responsible for paying the costs incurred to meet those requests.

²⁶ Comments of Network Access Solutions, Inc., CC Docket No. 98-56 at 1 (filed June 1, 1998).

such as copper wire length, impedance level, digital loop carrier presence, wire gauge, quantity of bridge taps, and load coils. Rather, GTE uses an off-line query to determine if digital subscriber services are available to a particular subscriber's location. The same off-line process is used to support CLEC requests. This is consistent with the requirements of the Act since CLECs are provided with the same access as the ILEC provides itself.²⁷

2. The Order Status – Average Jeopardy Notification Interval measurement should be eliminated.

Based on further consideration, GTE agrees with Ameritech that measuring Order Status – Average Jeopardy Notification Interval is inconsistent with internal retail processes.²⁸ There is no standard measurement for a jeopardy interval due to the varying circumstances of each order and the difficulty of determining whether a jeopardy condition exists until just prior to the due date. Although GTE is committed to notifying all customers (including CLECs) when an order is in jeopardy, there are too many variables involved to anticipate the time at which the jeopardy determination could be made. For example, in many instances, the jeopardy occurs while completing the order due to unforeseen problems. Given that retail processes do not rely on jeopardy notification, a CLEC jeopardy notification measurement is unnecessary. As Ameritech notes, every effort is made up to 24 hours prior to the due date to meet the

²⁷ In order to provide their own ADSL product, CLECs may, of course, obtain ADSL-conditioned loops from GTE pursuant to their interconnection agreements and collocate their own ADSL equipment in GTE central offices.

²⁸ Ameritech Comments at 40-42.

date. The establishment of a jeopardy notification standard would force the ILEC to notify the CLEC that a date may be missed, when it may have been possible to meet the due date under the same circumstances for the ILEC's retail operations. Thus, a jeopardy measurement would create a new CLEC process that differs from retail and for which there is no retail analog. GTE withdraws its support of this measure until an objective method of measuring jeopardy circumstances is developed and the potential impact of jeopardy notices on due date performance can be studied.

3. ILECs that cannot distinguish between ILEC and CLEC OS/DA traffic should not be required to measure the OS/DA – Average Time To Answer for CLECs and ILECs.

In its comments, Ameritech confirms that, like GTE, it cannot compare the OS/DA – Average Time To Answer for CLECs and ILECs.²⁹ As GTE has explained,³⁰ it and most other ILECs route ILEC and CLEC operator services and directory assistance ("OS/DA") traffic over the same trunks, so it is impossible for the ILEC to determine the source of the call, and thus, the ILEC cannot discriminate against CLEC customers. Since the ILEC cannot identify ILEC and CLEC customer calls, it also cannot report separately on ILEC and CLEC performance. The Commission should note in its model guidelines that this measure should not apply to carriers that cannot distinguish between ILEC and CLEC traffic.

²⁹ Ameritech Comments at 66-68.

³⁰ GTE Comments at 10.

4. The Commission should recommend voluntary compliance with the National Emergency Number Association's guidelines.

GTE agrees with the National Emergency Number Association ("NENA") that there is "no immediate need to displace the traditional oversight of the states that have certified both the incumbents and their competitors..." in order to facilitate non-discriminatory access to 911 databases.³¹ Rather, states and carriers should continue to work with NENA to determine formats and protocols for data exchange, measurements for data quality, and 911 service standards generally. Consideration of additional performance measures – such as those proposed by Teleport³² – are best addressed in such a forum, rather than through adoption of model guidelines. Accordingly, as NENA states, the Commission's model guidelines and any related state efforts should "take note of this ongoing collaboration and incorporate the useful features."³³

ILECs and CLECs will likely adopt NENA guidelines voluntarily. However, if they do not, GTE urges states to consider rules on this issue because of the importance of 911 services. The model guidelines proposed by the Commission only cover ILEC performance and thus are insufficient. GTE urges the Commission to remove 911

³¹ Comments of the National Emergency Number Association, CC Docket No. 98-56 at 1-2 (filed June 1, 1998) ("NENA Comments").

³² See Teleport Communications Group Inc., CC Docket No. 98-56 at 10 (filed June 1, 1998) ("Teleport Comments").

³³ NENA Comments at 2.

measures from its proposed guidelines and recommend that states monitor whether both ILECs and CLECs are implementing NENA's guidelines voluntarily.

B. The purpose of performance measures is to confirm that CLECs receive non-discriminatory treatment, not to set an arbitrary target for desired performance.

Some commenters suggest that the Commission should propose specific benchmarks that ILECs must meet for each performance measure.³⁴ Such benchmarks would be completely inconsistent with the Act. Section 251(c) requires that ILECs provide interconnection and access to UNEs "on rates, terms and conditions that are just, reasonable, and nondiscriminatory"³⁵ and resale on terms that are not discriminatory.³⁶ This plain language requires that ILECs give CLECs service "that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection."³⁷ The Eighth Circuit has confirmed that CLECs are not entitled to better quality service than the ILEC provides to itself.³⁸ Therefore, the Commission should resist efforts to adopt benchmarks which by definition are unrelated to the non-discrimination standard.

³⁴ See, e.g., Allegiance Comments at 7-10; CompTel Comments at 9; MCI Comments at 22-23.

³⁵ 47 U.S.C. §§ 251(c)(2)(D), (c)(3).

³⁶ 47 U.S.C. § 251(c)(4)(A).

³⁷ 47 U.S.C. § 251(c)(2)(C).

³⁸ *Iowa Utils. Bd.*, 120 F.3d at 812-13.

C. Performance measurement data should be used only for regulatory purposes and should be kept confidential.

Consistent with the fact that the intent of performance measures is to ensure that CLECs are receiving non-discriminatory treatment, these data should be used only for that purpose. Thus, GTE agrees with Sprint's statement that performance measures should not be used for commercial purposes, such as comparative advertising.³⁹ In contrast, the Telecommunications Resellers Association asserts that all performance measure data should be made publicly available because confidentiality concerns are outweighed by "public policy considerations."⁴⁰ Since the purpose of measuring performance and providing data to CLECs is to ensure non-discrimination, no public benefits would accrue from making such information publicly available. All performance data should be kept strictly confidential under rules established by state commissions.

D. CLECs should be subject to reporting requirements both to the extent needed to ensure that they are receiving non-discriminatory treatment and, more importantly, to ensure that CLEC customers are treated fairly.

GTE agrees with Ameritech that the Commission should include reciprocal performance measures for CLECs in its model rules,⁴¹ even though no express CLEC requirements are included in Section 251. First, CLECs should be required to provide data to the extent that such information has an effect on ILEC performance, is necessary to allow accurate reporting by ILECs, or is needed to verify non-

³⁹ Sprint Comments at 7.

⁴⁰ TRA Comments at 17-18.

discrimination in processing of CLEC orders. For example, reciprocal reporting requirements might be necessary to measure trunk blockage on interconnection trunks connecting ILEC and CLEC networks. In addition, ILEC provision of non-discriminatory access to ordering systems may not be feasible without reasonable forecasts of CLEC demand for such services.

Similarly, CLECs should be required to provide performance measures based on their processing of orders, such as ILEC orders for customers that are switching from the CLEC to the ILEC. State commissions should develop performance measures, as necessary, to monitor CLEC performance. This will allow state commissions to ensure that CLEC customers who want to switch carriers are being treated fairly.

III. APPROXIMATE RETAIL ANALOGS CAN BE DEVELOPED FOR MOST PERFORMANCE MEASURES, BUT DIFFERENCES BETWEEN RETAIL AND WHOLESALE OFFERINGS MUST BE CONSIDERED IN EVALUATING PERFORMANCE.

AT&T asserts that "there is a reasonable ILEC retail or internal analog for virtually everything that a CLEC could purchase from an ILEC...."⁴² GTE agrees that "reasonable ILEC analogs"⁴³ can be developed for many, but not all, performance measures. In addition, the fact that some retail comparisons are not direct analogs

(...Continued)

⁴¹ Ameritech Comments at 20-21.

⁴² AT&T Comments at 39.

⁴³ *Id.* at 40.

must be taken into account in any non-discrimination evaluation, particularly those based on statistical tests.

For example, a direct retail analog exists for the following measurements: Average Completion Interval; Percentage of Due Dates Missed; Percentage of Customer Troubles Resolved Within Estimate Time; Average Time to Restore; and Frequency of Repeat Troubles in 30 Day Period. Although GTE does not have a direct internal measure for the Percentage of Troubles in 30 Days for New Orders, Reporting of POTS Trouble within a 7-day Interval could be used as a retail analog.

Contrary to the assertions of AT&T, however, retail analogs for other measurements are less accurate comparisons and some will not even be possible until electronic data interchange ("EDI") has been implemented:

- *Average Response Time* – For determining if discrimination is occurring, GTE supports the reporting of this measure only for the EDI and graphic user ("GUI") interfaces. Reporting only electronic interface performance is consistent with the Commission's tentative conclusion in the NPRM.⁴⁴ ILECs should not be required to report facsimile query performance for purposes of measuring parity of performance since no similar retail analog exists. The only comparison that could be done would be a manual collection of data test for non-discriminatory performance among CLECs using facsimile methods. However, this would be unduly burdensome.
- *Average FOC Notice Interval* – Confirmation that a retail order has been accepted for processing occurs while the end user is on-line in a retail scenario. Only CLECs using the EDI (or NDM) order interface to provision flow-through capable services may receive this confirmation at parity with retail. For CLECs using file transfer, order rejection can occur as quickly as the next return file. For CLECs using facsimile, the rejection and confirmation processes may occur the next day. For both file and facsimile transmission, comparison to retail is inappropriate since a meaningful retail analog will not exist until EDI is implemented.

⁴⁴ NPRM, ¶ 41.

- *Average Reject Notice Interval* – For determining whether disparate treatment exists, GTE supports the reporting of this measure only for the EDI and GUI interfaces and only for services capable of being provisioned on a flow-through basis. Reporting only electronic interface performance is consistent with the Commission's tentative conclusion in the NPRM.⁴⁵ Using EDI, the CLEC will have the same opportunity to correct data prior to order submission as retail. A CLEC entry will be rejected or confirmed in session, and when the order is released to GTE for provisioning it should not be rejected because all critical system edits will have been cleared prior to order submission. Notification that the retail order has been accepted for processing occurs while the end user is on-line in a retail scenario. CLECs that use an EDI order interface will receive this confirmation at parity with retail. GTE does not support reporting file transfer or facsimile rejection performance for the purpose of determining if discrimination is occurring because no retail analog is available. If file transfer, mail, or facsimile reporting is required, the only valid comparison is a manual collection of data to test for non-discriminatory performance among CLECs using each of these methods.
- *Order Status – Average Completion Notice Interval* – There is no distinction between how retail and CLEC orders are completed. GTE does not internally notify itself or the customer that completion has occurred. Thus, there is no comparable retail analog for this measurement. Once EDI has been implemented, CLECs will be able to obtain order status on-line at any time, but there will still be no relevant retail analog since all orders are completed in the same way.
- *Average Jeopardy Notice Interval* – GTE does not issue internal jeopardy notices for retail services. As explained above, GTE does not support this measure.
- *Percentage of Order Flow Through* – The percent flow through measure is intended to show ILEC progress in providing the CLEC the ability to submit orders without ILEC involvement. Since all retail orders are manually entered from information provided by the end user, a meaningful retail analog does not exist. Flow through will provide improved Average Completion Interval measurements. However, flow through will not be feasible in the short term for UNEs and complex orders because of the difficulties in mechanizing these order types. Flow through should only be measured for those services for which ATIS standards have been adopted.

⁴⁵ NPRM, ¶ 41.

IV. REPORTING AND AUDITING REQUIREMENTS MUST NOT BE UNDULY BURDENSOME.

As noted above, the scope of any proposed reporting obligation must not extend beyond the information that is necessary to determine whether ILECs are complying with their non-discrimination obligations under the Act. At the same time, reporting guidelines should be developed to work with existing ILEC practices, consider the means by which reported elements are provided, and minimize burdens on the parties that will provide and use this information. To this end, the Commission's reporting guidelines should: (1) propose state-wide performance reports; (2) protect disclosure of proprietary or market sensitive data; (3) encourage the adoption of efficient reporting methods, such as web-based solutions; and (4) defer to audit provisions in privately negotiated interconnection agreements or a state standard.

A. States should be used as the geographic unit for reporting.

In its Comments, GTE supported state-wide reporting of the Commission's proposed performance measures.⁴⁶ As other parties confirmed, reporting on a state-wide basis will ensure that measurements accurately reflect an ILEC's overall level of service.⁴⁷ The smaller geographic areas proposed by several CLECs and others⁴⁸

⁴⁶ GTE Comments at 5-6.

⁴⁷ Ameritech Comments at 18; Comments of Conectiv Communications, Inc., CC Docket No. 98-56 at 6-7 (filed June 1, 1998); Comments of SBC Communications Inc., CC Docket No. 98-56 at 3 (filed June 1, 1998) ("SBC Comments").

⁴⁸ Allegiance Comments at 15-16; ALTS Comments at 5-6; KMC/RCN Comments at 3; LCI Comments at 9-11; MCI Comments at 28; Comments of MediaOne Group, Inc., CC Docket No. 98-56 at 10-12 (filed June 1, 1998).